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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O. A. NO. 2215/1999
M. A. NO. 2210/1999
M. A. NO. 2220/1999

New Delhi this the 29th day of January, 2001.

HON'BL! SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

1. Anil Kumar Saini
S/o Shri Vidya Nidhi Saini
TCM Grade-I, under SE/Tele
Northern Railway, Trunk Exchange
DRM Office, New Delhi.
2. Hukum Chand
S/o Shri Karam Chand
TCM Grade-I, under SE/Cable
DRM Office, New Delhi.
3. Madan Lal
S/o Shri Gopi Chand
TCM Grade-I, under SE/Tele
Exchange, S.P. Marg
New Delhi. Applicants

(None for the applicants)

-versus-

1. Union of India through
General Manager (Personnel)
Northern Railway
Baroda House
New Delhi.
2. Divisional Railway Manager
Northern Railway, DRM Office
State Entry Road
New Delhi.
3. Divisional Personnel Officer
Northern Railway, DRMs Office
State Entry Road
New Delhi. Respondents
4. Director Establishment (Non-Gazetted)
Railway Board,
Ministry of Railways
Rail Bhawan
New Delhi.

(By Advocate Shri P.M. Ahlawat)

O R D E R (ORAL)

Shri S.A.T.Rizvi, Member(A):

Applicants and their advocate are absent. We

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have heard Shri P.M. Ahlawat, the learned advocate appearing on behalf of the respondents. We proceed to dispose of the OA on merits in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987 in the absence of the applicants and their counsel.

2. MA No. 2210/1999 for joining together in one OA is granted.

3. MA No. 2220/1999 for exemption from putting signatures of applicants 2 and 3 in the verification attached to the OA is also allowed.

OA 2215/1999

4. The applicants, three in number, who are Telecom Maintainer Grade-I (TCM-I) in the Signal and Telecom Department, Northern Railway, are aggrieved by letter dated 2.6.1999 issued by the Divisional Personnel Officer, Respondent No.3 herein, and the letter dated 17.9.1999 by which the results of the written examination have been declared. By the aforesaid letter dated 2.6.1999, the process for selection to the post of JE-II (Tele) was initiated.

5. The brief facts of the case are as follows:

The respondents decided to make recruitment to the post of JE-II (Tele) carrying the pay scale of

2

Rs. 5000-8000. The total number of posts to be filled up by promotion ~~were~~ 5, one of which was reserved for SC category and the remaining for general candidates. The relevant rule providing for promotion to the rank of JE-II (Tele) provides as follows:

- " (i) 50% by direct recruitment through Railway Recruitment Board.
- (ii) 20% by induction of Intermediate Apprentices from amongst Maintainers possessing the qualification of Matriculation with three years service and below 45 years of age; and
- (iii) 30% by promotion by Selection from Maintainers in the immediate lower grade."

The respondents have, as a one time measure, diverted the 50% quota meant for direct recruitment for being filled by the method followed in respect of 20% under the aforesaid rules. That is how 5 posts were earmarked for being filled up ~~reserved~~ by following the procedure at Sl.No.(ii) above i.e. by induction of Intermediate Apprentices from amongst Maintainers possessing the qualification of Matriculation with three years's service and below 45 years of age. The learned counsel appearing for the respondents has assured us that there is no rule providing for OBC reservation in respect of recruitments made by following the aforesaid procedure whereas there would be reservation in the event of direct recruitment being made as per Sl.No.(i) above.

6. The applicants have found many problems with

2

the way the promotions have been made by the respondents to the rank of JE-II (Tele). Firstly, they have mentioned that no vacancy was advertised for the OBC ~~category~~ to which category they themselves belong. The learned counsel for the respondents, as already stated, asserted that the rule of reservation for OBC will not apply in the present case. In our view, the ground taken by the applicants would be valid if they had succeeded in the written test and had claimed appointment against possible reserved posts. That is not so in the present case as all the applicants took the written test but failed to qualify. The applicants claim for reservation, therefore, is rejected as meaningless.

7. The applicants have next proceeded to contend that the written test should have been of three hours' duration in accordance with the rules whereas in the present case, it lasted about 2-1/2 hours. Similarly, they have contended that in accordance with the procedure, 50% marks should have been allocated to objective type questions and the remaining 50% to narrative type ~~or~~ questions. In the present case according to them, only 20% marks were allocated to objective type questions. This according to them, has vitiated the procedure followed by the respondents. We have considered this contention and have also glanced through the rules referred to by the learned counsel appearing for the respondents as also the rules placed on record by the applicants. The

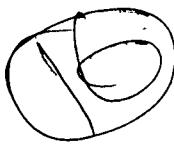
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rules in question, in either case, ~~which~~ ^{though} meant for guidance do not lay down fixed criterion. We also find that strictly speaking the rules aforesaid will not apply in the present situation. In sum, therefore, we see no great problem if in the present case, only 20% marks were earmarked for objective type questions, 70% for subjective type questions and remaining 10% for Hindi inasmuch as all those who have appeared at the written test including the applicants have been equally affected by the aforesaid method followed by the respondents. We are not inclined to agree ~~that~~ ^{that} any disadvantage has accrued to the applicants ^{on account} for this. Aforesaid plea is also, therefore, rejected.

8. They have then raised the plea of examination papers ^{not} being set in ~~two~~ two languages as prescribed. Here again, no specific rule strictly applicable in the present situation has been placed before us. However, from the policy circular dated 31.7.1991 placed on record by the applicants at Annexure P-7, it transpires that the question papers ~~are~~ ^{are} indeed required to be in bilingual form for all ^{However} departmental tests. The relevant rule ~~however~~ ^{also} provides that the competent authority on coming to the conclusion that the knowledge of English was essential in certain cases could insist upon the relevant test being conducted in English. According to the learned counsel for the respondents, the examination in question has been conducted in ~~Hindi~~ ^{English} based on the

competent authority's satisfaction as above and the same cannot be questioned. We find force in the arguments advanced by the learned counsel and reject the plea advanced by the applicants.

9. The learned counsel appearing for the respondents has further argued that ~~the~~ ^{OA} raising the various pleas in the ~~test~~ cannot be accepted after the applicants have voluntarily taken the written examination and ~~been~~ ^{have been} found to have failed in the written test. The applicants, according to him, always had the option to ~~not~~ boycott the examination ab-initio. By writing the examination paper, they have acquiesced in the procedure followed by the respondents in conducting the examination. In support of his contention, the learned counsel has relied upon a decision of the Supreme Court in the case of Suneeta Aggarwal v. State of Haryana and others, 2000 (3) S.L.J. 30. We have perused the aforesaid judgement and find that though the circumstances obtaining in that case were not exactly identical to the circumstances of the present case, from the ratio of the aforesaid judgement we find that ~~any~~ having appeared in the ^{one} test cannot challenge its validity. The petitioner had taken a subsequent examination and had appeared before the selection committee on the second occasion even after her selection for the same post by an earlier selection committee had not been ~~cleared and was in dispute~~. ~~cleared~~ The corresponding plea raised by the applicants, therefore, cannot be sustained.



10. In the circumstances outlined in the preceding paragraphs, we find that the OA has no force and the same is dismissed but without any order as to costs.

S.A.T.Rizvi

(S.A.T.Rizvi)
Member (A)

Ashok Agarwal

(Ashok Agarwal)
Chairman

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